

FILED

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

COUNTY OF WATAUGA

2014 AUG 29 PM 4: 41

SUPERIOR COURT DIVISION

14-CVS-488

WATAUGA COUNTY, C.S.C.

NATHAN A. MILLER,
Plaintiff,

BY

HTF

Vs.

VERIFIED COMPLAINT

KATHLEEN CAMPBELL,
Defendant.

NOW COMES the Plaintiff, Nathan A. Miller, who complains of the Defendant, Kathleen Campbell as follows:

PARTIES

1. Plaintiff, Nathan A. Miller, is a citizen and resident of Watauga County, North Carolina.
2. Defendant, Kathleen Campbell, is a duly appointed member of the Watauga County Board of Elections and resident of Watauga County, North Carolina whose address is 568 Laurelcreek Road, Sugar Grove, NC 28679.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to N.C.G.S. § 1-75.4.
4. Venue is proper in Watauga County, North Carolina.

FACTUAL ALLEGATIONS

5. Defendant is a duly appointed member of the Watauga County Board of Elections as appointed by the North Carolina State Board of Elections.
6. On July 24, 2014, the Plaintiff hand delivered a public records request to the Watauga County Board of Elections office located in the Watauga County Courthouse.
7. The Defendant was in the office that day and did in fact read and review the public records request on July 24, 2014.
8. The public records request asked for among other things various documents that the Defendant utilized to make her comparisons that she used in a public meeting on July 23, 2014, emails between her and various individuals, her actual written statement read aloud on July 23, 2014, copies of the videos utilized at the July 23, 2014 meeting, and other items. A copy of the public records request is attached as Exhibit A to this Verified Complaint and is incorporated by reference herein as if set out in full.

9. Plaintiff made said public records request pursuant to N.C.G.S. § 132-1.
10. Plaintiff gave a reasonable amount of time for Defendant to comply with the public records request.
11. Defendant has failed to respond to the public records request in any manner.
12. On August 11, 2014, the Plaintiff sent a letter to the Watauga County Attorney asking that the public records request be fulfilled. A copy of this letter is attached as Exhibit B.
13. On August 18, 2014 the Defendant sent a letter to Plaintiff's email stating that she was not the custodian of her own records and instead sought direction from the director of the Watauga County Board of Elections as to who the custodian of her records is.
14. The Defendant is the custodian of her own email and is the custodian of all records asked for in the public records request.

CAUSE OF ACTION

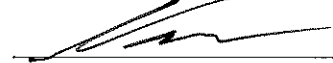
15. Plaintiff realleges and incorporates by reference paragraphs 1 through 14 of this his Complaint herein as if set out in full.
16. Defendant is a public official pursuant to the definition of N.C.G.S. § 132-1.
17. Defendant's refusal to produce the documents requested in the public records request attached as Exhibit A is unlawful as every document requested is a public record as defined in N.C.G.S. § 132-1 and subject to disclosure.
18. Plaintiff seeks a judicial order compelling the Defendant to produce all records requested in the public records request.

WHEREFORE, the Plaintiff respectfully prays unto the Court for the following relief:

1. That the Court finds that the Defendant is a public official as defined by N.C.G.S. § 132-1 and her documents are subject to a public records request pursuant to said statute.
2. That the Court orders the Defendant to produce all documents requested in the public records request immediately to Plaintiff.
3. That should the Defendant state said documents do not exist that the Court either review the Defendant's email accounts *in camera* or order a forensic review of the Defendant's email accounts by a qualified information technologies specialist at the expense of the Defendant.
4. That the costs of this action, including the Plaintiff's reasonable attorney's fees, be taxed against the Defendant pursuant to N.C.G.S. § 132-9(c).
5. For such other and further relief that this court deems just and proper.

This the __ day of August, 2014.

MILLER & JOHNSON, PLLC



Nathan A. Miller
Plaintiff / Attorney
P.O. Box 49
Boone, NC 28607
828-264-1125
N.C. State Bar # 35451

EXHIBIT A

MILLER & JOHNSON, PLLC
ATTORNEYS AND COUNSELORS AT LAW
766 WEST KING STREET
POST OFFICE BOX 49
BOONE, NORTH CAROLINA 28607

PAULE E. MILLER, JR
NATHAN A. MILLER

PHONE (828) 264-1125
FAX (828) 262-3544
MLAWFIRM@BELLSOUTH.NET

July 24, 2014

Ms. Kathleen Campbell
Member, Watauga County Board of Elections
c/o Jane Ann Hodges, Director
842 West King Street, Suite 6
Boone, NC 28607
VIA Hand Delivery

Re: Public Records Request pursuant to N.C. Gen. Stat. §132-1

Dear Ms. Campbell:

Pursuant to N.C. Gen. Stat. §132-1, please consider this a formal request for the following public records as referenced in your handouts to the Watauga County Board of Elections at their meeting on July 23, 2014:

1. All documents relied upon by you in preparing your comparison on the 2009 and 2013 municipal turnout numbers
2. All documents relied upon by you in preparing your analysis of the 2010 primary election numbers and turnout
3. All documents relied upon by you in preparing your 2013 municipal election comparison and your 2014 primary election comparison
4. All documents reviewed by you related to your preparation of the 2013/2014 turnout by race in these elections
5. All documents reviewed by you related to your handout entitled "Data Comparisons Watauga County Elections"
6. All documents reviewed by you obtained from the Watauga County Board of Elections and the North Carolina State Board of Elections related to your handouts at the July 23, 2014 meeting
7. A copy of all "complaint forms" filled out by voters related to the 2013 municipal election and the 2014 primary election, including but not limited to the six voters "turned away for being in the wrong precinct"
8. All documents regarding individuals who were not able to vote as referenced on page four of your handouts at the July 23, 2014 meeting
9. A copy of all documents relied upon by you in compiling the information set forth in Chart 6 of your handouts at the July 23, 2014 Board of Elections Meeting
10. A copy of all documents reviewed by you in compiling the information set forth in Chart 6 of your handouts at the July 23, 2014 Board of Elections Meeting
11. A copy of all documents relied upon by you in compiling the information set forth in Chart 7 of your handouts at the July 23, 2014 Board of Elections Meeting
12. A copy of all documents reviewed by you in compiling the information set forth in Chart 7 of your

handouts at the July 23, 2014 Board of Elections Meeting

13. All documents which support your statement that voting at the Agricultural Conference Center for Boone III "was meant by the Democrats to be a temporary site...."

14. All documents which support your statement on Page 8 of your handout at the July 23, 2014 meeting of the Board of Elections that "Boone I voters were very angry when they were turned away from voting at the Courthouse."

15. A copy of the "signed and sworn statement from poll worker, Trish Rokoske" as referenced in your handout

16. A copy of any and all other signed statements from poll workers regarding the 2013 municipal election and/or the 2014 primary election

17. A copy of all documents which support your statement that "I believe the issue of no longer being able to use provisional votes is the most important issue driving voter suppression in Watauga County."

18. A copy of all "written complaints from people" as referenced in your comment on page 9 of your handout

19. A copy of all "videos of students and others having problems voting" as referenced in your comment on page 9 of your handout

20. A copy of the complete "video of a black voter who lives in the Hospitality house...."

21. All documents reviewed by you related to your statement that "young voters, 18-21 years of age decreased ..." as set forth on Page Ten of your handout

22. All documents which you contend support your statement on Page Ten of your handout that "precincts ... have been deliberately moved to make them less accessible..."

23. All emails or other written communication between you and any of the following individuals between September 1, 2013 at the date of your response to this public records request which is related to voting, elections, political activities, and/or any of the issues contained in any of your handouts at the July 23, 2014 Watauga County Board of Elections meeting: Pamela Williamson; Jerry W. Williamson; Stella Anderson; Diane Tilson; Ian O'Keefe; Jesse Presnell; Glenda Hubbard; Jane Ann Hodges; Larry Henson; Donna Houck; Kathy Idol; and Trish Rokoske.

Please provide all such documents to me at my email address at mjlawfirm@bellsouth.net. For all videos, produce them in their original, unaltered form, as well as in any edited form you may possess. Responses to items 1-22 should be easily produced by you no later than the date of the August 8, 2014 State Board of Elections meeting. Please produce all documents responsive to item 23 no later than July 25, 2014.

Thank you for your prompt and diligent attention to this legally mandated request.

Sincerely,



Nathan A. Miller

EXHIBIT B

MILLER & JOHNSON, PLLC
ATTORNEYS AND COUNSELORS AT LAW
766 WEST KING STREET
POST OFFICE BOX 49
BOONE, NORTH CAROLINA 28607

PAUL E. MILLER, JR
NATHAN A. MILLER

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FAX (828) 262-3544
MJLAWFIRM@BELLSOUTH.NET

August 11, 2014

Stacy C. Eggers, IV
P.O. Box 248
Boone, NC 28607

RE: Public Records Request for Records in Possession of Watauga County Board of Elections
Member Kathleen Campbell

Dear Mr. Eggers:

I hope that this letter finds you well. I am writing you in regards to a public records request I made on July 23, 2014 to Watauga County Board of Elections Member, Kathleen Campbell, for certain public records that I am entitled to pursuant to N.C.G.S. §132-1. I made this request in writing and delivered it to Mr. Henson of the Watauga County Board of Elections. Ms. Campbell was present in the office that day and I know that she received the request that day. A copy of this request is attached with this letter. I gave Ms. Campbell a reasonable amount of time to comply with this request as required by statute. I asked that the email information be forwarded to me on July 25, 2014 and that other documents be produced to me by August 8, 2014.

Ms. Campbell has failed to produce the documents during the reasonable amount of time given and she failed to contact me to ask for an extension. As the Board of Elections is a county department and I know the county has a policy of answering public records request in a timely, efficient and complete manner, I respectfully ask you to inform Ms. Campbell of her legal duty to produce the records immediately and completely.

If Ms. Campbell refuses to comply with the law, as is her sworn duty as an appointed government official, I stand ready to file a civil lawsuit against Ms. Campbell to force the issue. I hope that your sound counsel to Ms. Campbell can avoid such deliberative actions.

I look forward to your response.

Very Truly Yours,



Nathan A. Miller

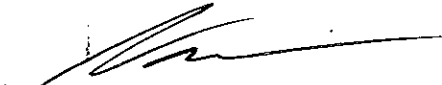
Enclosure

STATE OF NORTH CAROLINA

VERIFICATION

COUNTY OF WATAUGA

Nathan A. Miller, being duly sworn, deposes and says that he is the Plaintiff herein; that he has read the foregoing Complaint and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated upon information and belief, and as to those he believes them to be true.



Nathan A. Miller

Sworn to and subscribed before me
this the 29th day of August, 2014.

Sarah M. Poston

Notary Public
My commission expires: 7/29/2017

NOTARIAL SEAL:

